

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

BRIAN MITCHELL

v.

LOWE'S HOME CENTERS, LLC

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Civil No. CCB-16-590

MEMORANDUM

This is a *pro se* action for employment discrimination. Discovery has been completed, and defendant has filed a motion for summary judgment. After being advised of the consequences of a failure to do so, plaintiff has not responded to the motion. The motion will be granted.

Plaintiff, Brian Mitchell, has produced no direct or indirect evidence of race-based animus on the part of defendant Lowe's Home Cengters, LLC ("Lowe's") in terminating his employment. Likewise, he has not met his burden of proof through the burden-shifting framework of *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). Plaintiff's employment was terminated on October 17, 2014 after a customer reported that she had asked plaintiff about having Lowe's install a door for her, and plaintiff responded by telling her that his father, a contractor, could do the work instead. This response violated a policy of defendant that prohibited employees of defendant from seeking business opportunities from defendant for their personal benefit. Plaintiff admitted that he did so.

Plaintiff's only argument about disparate treatment of a comparator is that a department manager in the section in which he worked violated policy in the same way plaintiff did. That is, the other employee often took calls on his personal cell phone from his "customers." However, plaintiff has no information as to what the other employee was doing on the phone. The

customers to whom the other employee, a manager, was speaking might have been purchasing items from Lowe's and giving the employee their orders.

Plaintiff has failed to support his claim of racial discrimination in the termination of his employment. Accordingly, defendant's motion for summary judgment will be granted.

A separate Order follows.

Date: October 25, 2017

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Catherine C. Blake
United States District Judge